

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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SECOND SUPPLEMENTAL APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on January 15, 2009 and the Notice of Non-compliance dated April 15, 2009 and the second Notice of Non-compliance dated August 10, 2009, Appellants present this supplemental appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 32-36 and 38-43 in the Final Office Action dated October 14, 2008. The appealed claims are set forth in the attached Claims Appendix.

In response to the Notice of Non-compliance, Patent Appeals Specialist Cassandra Paris states that “The grounds of rejection for review, should list the same rejections as those set forth in the examiner’s office action.”

For clarity, 37 C.F.R. s41.37(c)(1)(vi) states: “*Grounds of rejection to be reviewed on appeal.* A concise statement of each ground of rejection presented for review.” Applicants assert confusion because 37 C.F.R. s41.37(c)(1)(v) does not require that “the grounds of rejection for review” “list the same rejections as those set forth in the examiner’s office action.” Applicants have satisfied the exact language of 37 C.F.R. s41.37(c)(1)(vi) and have stated the grounds of rejections to be reviewed on Appeal relating to the Independent claims, which it completely and entirely proper. The present Notice of Non-compliance is not only improper but an unfair delay by the Patent Office for the substantive examination of the merits of the present appeal.

Applicants additionally assert further confusion based on the Patent Appeals Specialist’s own statements indicating that “the grounds of rejection for review, should list the same rejections as those set forth in the examiner’s office action.” (Applicants emphasis). The term “should” is a suggestive term and not a required term. The term “should” does not indicate or state a substantive requirement for an appeal, or in other terms does not indicate proper grounds for issuing a valid notice of non-compliance.

In the event there is a legal rule requiring that 37 C.F.R. s41.37(c)((1)(iv)) state every single ground of rejection identically mirroring the final Office Action, Applicants, consistent with the re-iterated below-noted paragraph, respectfully request the Patent Appeal Specialist cite to such rule. Absent that, Applicants are in completely legal compliance with the words and spirit of 37 C.F.R. s41.37(c)(1)(iv).

Appellants, again, submit the present Appeal Brief, as originally filed, is in complete compliance with the formal requirements of 37 CFR 41.37 and any Patent

Appeal Specialist lacks valid grounds for rendering the present Appeal Brief as being non-compliant. In the event the present Appeal Brief is deemed non-compliant, Appellants demand complete clarity of the grounds of such non-compliance, as well as explicit instructions for curing any such interpreted defect. Appellants seek to advance the substantive appeal of the present patent application and seek to forward such substantive examination in lieu of any formalistic matters as rendered by the Patent Appeals Specialist to delay the Examination of the present Appeal.

1. Real Party in Interest

This application was assigned to International Business Machines Corporation, the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences which would directly affect, be directly affected by, or have a bearing on the instant appeal.

3. Status of Claims

Claims 1-31, and 37 have been cancelled. Claims 32-36 and 38-43 stand finally rejected under 35 U.S.C. §103(a). The final rejections of claims 32-36 and 38-43 are being appealed.

4. Status of Amendments

The amendments submitted by Appellants on June 19, 2008 have been entered. No amendment was filed in response to the final rejection dated October 14, 2008. Therefore, all amendments presented in this application have been entered.

5. Summary of Claimed Subject Matter

Appellants' claim 32 recites a global service management system (e.g. 10 of Fig. 1, ¶[0009]) for managing a plurality of service control points (SCPs) (e.g. 12, 14 of Fig. 1, ¶[0017] - , ¶[0018]) in a telecommunications network. The global service management system comprises a message receiving means for receiving a message for controlling two or more SCPs of the plurality of SCPs; (e.g. ¶[0020]); a first translating means for translating at least a portion of the message (e.g. 36 of Fig. 1, ¶[0021]) to a first vendor-specific format of a first SCP of the two or more SCPs in the telecommunication network; a second first translating means for translating at least a portion of the message (e.g. 38 of Fig. 1, ¶[0021]) to a first vendor-specific format of a second SCP of the two or more SCPs, wherein the second translating means is different from the first translating means. (e.g. 36, 38 of Fig. 1, ¶[0021]) The system of claim 32 further comprises business object means for processing the message at a time when the message requests system modifications (e.g. 120 of Figs. 3 and 4, ¶[0038]), the time of the message request being at a future date and time; and units of work means for communicating with the message receiving means and with one or more business object means (e.g. 120 of Figs. 3 and 4, ¶[0040] for processing the message at the future date and time. (e.g. 44 of Fig. 2, ¶[0077]))

Appellants' claim 40 recites a data processing method in a telecommunications network. The steps of the claimed method comprise, receiving a request for networking information (e.g. ¶[0004]) retrieval at a global service management system (e.g. 10 of Fig. 1, ¶[0009]) which is in communication with service control points (SCPs) (e.g. 12, 14 of Fig. 1, ¶[0017] - , ¶[0018]) in the telecommunications network, the SCPs being of two or more vendors; (e.g. ¶[0005]) and determining if the requested network information is

stored at the global service management system. (e.g. 100, 102 of Fig. 4, ¶[0058]) As claimed, if the requested network information is not stored at the global management system, the data processing method performs the step of determining which SCP stores the requested network information; (e.g. 100, 102 of Fig. 4, ¶[0058]) and providing the requested network information to a network element adaptor; (e.g. 142, 144 of Fig. 4, ¶[0077]) at the network element adaptor. Appellants' claimed method also performs the step of translating the requested network information to vendor-specific format required by the SCP which stores the requested network information (e.g. ¶[0077] - ¶[0078]), the request including a message request for performing a requested operation at an indicated future date and time. (e.g. 44 of Fig. 2, ¶[0077])

6. Grounds of Rejection to be Reviewed on Appeal

I. The rejection of claim 32 under 35 U.S.C. §103(a) is improper because U.S. Patent No. 5,546,574 and U.S. Patent No. 5,742,762 fail to teach or suggest all of the recited limitations.

II. The rejection of claim 40 under 35 U.S.C. §103(a) is improper because U.S. Patent No. 6,141,759, U.S. Patent No. 5,546,574 and U.S. Patent No. 5,742,762 fail to teach or suggest all of the recited limitations.

7. Argument

I. The rejection of claim 32 under 35 U.S.C. §103(a) is improper because U.S. Patent No. 5,546,574 and U.S. Patent No. 5,742,762 fail to teach or suggest all of the recited limitations.

Claim 32 stands rejected on the grounds of being unpatentable over U.S. Patent No. 5,546,74 (“Grosskopf”) in view of U.S. Patent No. 5,742,762 (“Scholl”). Appellants respectfully disagree and submit that claim 32 is in-fact patentable in view

of the prior art because, among other reasons, the combination of Grosskopf and Scholl fails to teach or suggest all of the recited limitations.

As understood, Grosskopf, teaches a peer-to-peer data concurrence and processing system for maintaining concurrence of parallel data sets stored in different network elements. The Grosskopf system is directed to telecommunication systems where this data is concurrently maintained in multiple telecommunication network elements. The Grosskopf system operates a plurality of communication messages at various times to relay the information, such that time-specific communication messages and various “resynchronizations” provide the resultant benefit of keeping data concurrent on multiple systems.

Scholl, as understood, describes a network management gateway relating to Internet / web connectivity. As noted in the abstract, the Scholl system utilizes a web client for engaging in multi-media activities, including hypermedia translation activities. In its most general terms, Scholl does not relate to a telecommunication network, but rather web-based connectivity in a hypermedia environment.

One skilled in the art would not be motivated to combine Grosskopf with Scholl because they are two completely and entirely disparate systems. Grosskopf relates to telecommunication systems, whereby various protocols are operated to update and/or synchronize different elements so data is concurrently maintained across different telecommunication elements. In the un-related context of hypermedia, Scholl relates to translation between web clients and hypermedia contents. Nothing in the Scholl system directly or tangentially relates to the telecommunication network of the Grosskopf system and as such, one skilled in the art would not be motivated to

combine these systems because of the disparate nature of web client / hypermedia translation of Scholl relative to the telecommunication data concurrence operations of Grosskopf.

In addition, even if one skilled in the art combined these systems, the combination fails to teach or suggest all of the recited limitations. For example, the Examiner asserts Grosskopf as teaching “the time of the message request being at a future data and time.” In support of this rejection, the Examiner cites to 3 separate passages of Grosskopf, specifically col. 4, lines 48-52; col. 4, lines 1-11; and col. 2, lines 45-60. A more examined review of these passages fails to provide any reasonable support for this limitation. Rather, the Examiner-cited passages describe the basic data concurrence nature of the Grosskopf system, where there is absolutely no mention of the “future data and time” aspect.

Moreover, to support the present rejection, the Examiner appears to assert Scholl for the basic concept of translation and reliance on Grosskopf for the remaining claimed elements. Such an approach neglects the exact language of the claims. For example, Appellants re-iterate the position previously offered in the prior Office Action response that Scholl does not teach or suggest operations in a telecommunication network. Therefore, it necessarily follows that Scholl fails to teach or suggestion the first and second translating means “for translating at least a portion of the message” of a first SCP / of a second SCP. The Scholl system has no relations to any type of SCP or operations in such an environment. The Examiner attempts to overcome these shortfalls by reliance on Grosskopf’s telecommunication system, but this ignores the basic nature of the Scholl reference being directed to translations from

hypermedia to web activity. This necessarily provides that the taught “translation” of Scholl is not and cannot be the same “translations” claimed herein.

Accordingly, Appellants respectfully submit the rejection is improper because: (1) one skilled in the art would not have been motivated to combine these references; (2) even if combined, the combination fails to teach or suggest all of the recited limitations including the “time of the message request being at a future date and time” and “processing the message at the future date and time”; and (3) the Examiner’s combination ignores the exact claim language recited in claim 32, including the recited service control points in view of the teaching of Scholl’s translation operations.

Appellants further note that claims 33-36 and 38-39 depend from claim 32. Claims 38-39 stand rejected under the same grounds, where claims 33-36 are rejected based on additional grounds. Appellants submit the above-offered position regarding Independent claim 32 and submit that, by rule, upon determination of the patentability of claim 32, claims 33-36 and 38-39 are necessarily patentable for at least the same reasons noted above. Appellants further note that claims 33-36 and 38-39 recite additional patentable subject matter in view of the prior art of record, but note the fatal deficiencies regarding the base rejection of claim 32 also render the claims patentable.

II. The rejection of claim 40 under 35 U.S.C. §103(a) is improper because U.S. Patent No. 6,141,759, U.S. Patent No. 5,546,574 and U.S. Patent No. 5,742,762 fail to teach or suggest all of the recited limitations.

Claim 40 stands rejected on the grounds of being unpatentable over U.S. Patent No. 6,141,759 (“Braddy”) in view of Grosskopf in view of Scholl. Appellants respectfully disagree and submit that claim 40 is in-fact patentable in view of the prior

art because, among other reasons, the combination of Brady, Grosskopf and Scholl fails to teach or suggest all of the recited limitations.

Braddy, as understood, relates generally to managing information requests, including request brokers. For example, Fig. 4 illustrates the request brokerage between various local data stores across networks 75 and 50. Braddy provides for communication between the client (web browser) and the application server 92 acting as an interface for the various types of local data stores.

For the sake of brevity, Appellants refer to Section I above regarding the characterizations of the teachings of Grosskopf and Scholl.

Appellants note that the Examiner asserts Broddy for networking management. This assertion fails to cure the fatal deficiencies noted in Section I above regarding the teachings of Grosskopf and/or Scholl. For example, one skilled in the art would not be motivated to combine Grosskopf with Scholl, as noted above.

Another notable exclusion in the three-reference obviousness combination is the failure of any of the prior art references to teach or suggest “at a future date and time.” Similar to claim 32, the Examiner improperly relies on Grosskopf for the “future date and time” limitation. As Grosskopf does not teach or suggest this limitation, the present rejection cannot be sustained.

Accordingly, Appellants respectfully submit the rejection is improper because:

- (1) one skilled in the art would not have been motivated to combine these references;
- (2) even if combined, the combination fails to teach or suggest all of the recited limitations including “at a future date and time”; and
- (3) the Examiner’s combination with Braddy fails to cures the deficiencies of the Scholl / Grosskopf combination.

Appellants further note that claims 41-43 depend from claim 40. Claim 43 stands rejected under the same grounds, where claims 41 and 42 are rejected based on additional grounds. Appellants submit the above-offered position regarding Independent claim 40 and submit that, by rule, upon determination of the patentability of claim 40, claims 41-43 are necessarily patentable for at least the same reasons noted above. Appellants further note that claims 41-43 recite additional patentable subject matter in view of the prior art of record, but note the fatal deficiencies regarding the base rejection of claim 40 also render the claims patentable.

Conclusions

For the reasons set forth above, Appellant respectfully requests that the Board reverse the final rejections of the claims by the Examiner and indicate the present pending claims are allowable.

Respectfully submitted,

Dated: November 10, 2009



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THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY THROUGH THE PATENT AND TRADEMARK OFFICE EFS FILING SYSTEM ON November 10, 2009.

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Claims Appendix

1. - 31. (Cancelled)

32. (Rejected) A global service management system for managing a plurality of service control points (SCPs) in a telecommunications network, the global service management system comprising:

 a message receiving means for receiving a message for controlling two or more SCPs of the plurality of SCPs;

 a first translating means for translating at least a portion of the message to a first vendor-specific format of a first SCP of the two or more SCPs in the telecommunication network;

 a second first translating means for translating at least a portion of the message to a second vendor-specific format of a second SCP of the two or more SCPs, wherein the second translating means is different from the first translating means;

 business object means for processing the message at a time when the message requests system modifications, the time of the message request being at a future date and time; and

 units of work means for communicating with the message receiving means and with one or more business object means for processing the message at the future date and time.

33. (Rejected) The global service management system of claim 32 wherein the message receiving means comprises:

 audio response means for receiving messages from a telecommunication services subscriber at a telephone.

34. (Rejected) The global service management system of claim 32 wherein the message receiving means comprises:

means for receiving messages from an automated provisioning system.

35. (Rejected) The global service management system of claim 32 wherein the message receiving means comprises:

means for receiving messages from an internal provisioning computer, the messages being prepared in response to customer questioning.

36. (Rejected) The global service management system of claim 32 wherein the message receiving means comprises:

means for receiving messages from the Internet.

37. (Cancelled)

38. (Rejected) The global service management system of claim 32 further comprising:

a first network element manager associated with a first SCP;
a second network element manager associated with the second SCP; and
network element manager means for managing translation of the message processed by the business object means in to the second vendor-specific format.

39. (Rejected) The global service management system of claim 38 wherein the network element manager means comprises:

means for translating messages from a network element manager to a format of the business object means.

40. (Rejected) A data processing method in a telecommunications network, the method comprising:

receiving a request for networking information retrieval at a global service management system which is in communication with service control points (SCPs) in the telecommunications network, the SCPs being of two or more vendors;

determining if the requested network information is stored at the global service management system;

if the requested network information is not stored at the global management system, determining which SCP stores the requested network information;

providing the requested network information to a network element adaptor;

at the network element adaptor, translating the requested network information to vendor-specific format required by the SCP which stores the requested network information, the request including a message request for performing a requested operation at an indicated future date and time.

41. (Rejected) The data processing method of claim 40 further comprising:

receiving a reply from the SCP which stores the requested network information in response to the message; and

reverse translating the reply from the format required by the SCP which stores the requested network information.

42. (Rejected) The data processing method of claim 41 wherein reverse translating the reply comprises:

providing portions of a request message to a reverse translation data base; and receiving reverse translated portions from the reverse translation database.

43. (Rejected) The data processing method of claim 40 wherein translating the requested network information comprises:

providing portions of a request message to a translation data base; and
receiving translated portions from the translation database.

Evidence Appendix

No evidence has been submitted or relied upon in the instant appeal.

Related Proceedings Appendix

There are no related proceedings which are related to or would have a bearing on the instant appeal.